

Farhad Novian (SBN 118129)
farhad@novianlaw.com
Paul Rogoff (SBN 232163)
paul@novianlaw.com
NOVIAN & NOVIAN LLP
1801 Century Park East, Suite 1201
Los Angeles, CA 90067

Tel: (310) 553-1222
Fax: (310) 553-0222

Attorneys for United Medical Imaging Healthcare, Inc.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

UNITED MEDICAL IMAGING
HEALTHCARE, INC.,

Plaintiff,

vs.

DEPARTMENT OF HEALTH AND
HUMAN SERVICES, Robert F.
Kennedy, Jr., in his official capacity as
Secretary of the United States Department
of Health and Human Services; HEALTH
RESOURCES AND SERVICES
ADMINISTRATION; THOMAS
ENGELS, in his official capacity as
Administrator of the Health Resources &
Services Administration;
DEPARTMENT OF THE TREASURY;
SCOTT BESSENT, in his official
capacity as Secretary of the United States
Department of Treasury,

Defendants.

CASE NO:

**COMPLAINT FOR INJUNCTIVE
AND DECLARATORY RELIEF,
AND FOR THE RETURN OF
FUNDS WITHHELD
UNLAWFULLY**

1 Plaintiff UNITED MEDICAL IMAGING HEALTHCARE, INC. (“UMIH” or
2 “Plaintiff”) brings this action for injunctive and declaratory relief against defendants
3 U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES (“HHS”), ROBERT
4 F. KENNEDY, JR., in his official capacity as Secretary of the HHS, HEALTH
5 RESOURCES & SERVICES ADMINISTRATION (“HRSA”), THOMAS ENGELS,
6 in his official capacity as Administrator of the HRSA, DEPARTMENT OF THE
7 TREASURY (“Treasury”), SCOTT BESSENT in his official capacity as Secretary of
8 the U.S. Department of the Treasury (collectively, “Defendants”).

9 INTRODUCTION

10 1. UMIH is a for-profit medical imaging center with a distinct focus on the
11 Los Angeles and Orange County markets it serves.

12 2. This action seeks relief under the Administrative Procedure Act from the
13 arbitrary, capricious, and unlawful actions of Defendants in their administration of the
14 Provider Relief Fund ("PRF") established under the Coronavirus Aid, Relief, and
15 Economic Security Act ("CARES Act").

16 3. UMIH worked tirelessly to care for patients during the COVID-19
17 pandemic. It went to similar lengths to try to reach a resolution of this matter with the
18 HRSA, without success.

19 4. HRSA was tasked by HHS with distributing pandemic relief dollars from
20 the PRF to eligible providers on behalf of HHS.

21 5. Due to the emergency nature of the pandemic, there was little time to
22 establish a regulatory regime governing the PRF. Thus, HRSA administered the PRF
23 via a wide array of guidance that distributed PRF dollars into four phases of both
24 general and targeted distributions. The guidance for the distribution of dollars, as well
25 as for the reporting requirements imposed on providers who elected to receive PRF
26 dollars, changed many times over the course of the four distribution phases.

27 6. At its core, this case is clear and straightforward. After granting UMIH’s
28 phase 4 appeal, HRSA assured UMIH in writing on or about April 16, 2024 that

1 Plaintiff would be permitted to submit any reporting for past phases for which UMIH
 2 was not in compliance with reporting requirements. Despite these assurances,
 3 however, Defendants wrongfully denied UMIH access to the online “portal” for phase
 4 3 to submit required phase 3 reporting. Instead, Defendants initiated collection
 5 actions, threatening UMIH's ability to provide essential healthcare services to its
 6 patients. Most recently, standard Medicare payments to UMIH have been withheld,
 7 purportedly to force UMIH to repay the phase 3 dollars it received.

8 7. HRSA's actions are particularly arbitrary and capricious because HRSA:
 9 (a) denied UMIH's phase 3 appeal; (b) granted UMIH's phase 4 appeal on or about
 10 April 16, 2024; (c) explicitly promised in the April 16, 2024 writing that UMIH could
 11 submit reporting for past phases, including Phase 3, but then failed to provide UMIH
 12 access to the phase 3 portal to do so; and (d) initiated collection actions through the
 13 Treasury Department—**prior to the April 16, 2024 communication**—on or around
 14 March 26, 2024, despite its written assurance just weeks later and UMIH's
 15 demonstrated willingness to comply with reporting requirements.

16 JURISDICTION AND VENUE

17 8. This Court has jurisdiction under 28 U.S.C. § 1331 (federal question) as
 18 this action arises under the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701-
 19 706.

20 9. Venue is proper in the Central District of California under 28 U.S.C. §
 21 1391(e) because Plaintiff does business in this district and a substantial part of the
 22 events giving rise to the claims occurred in this district.

23 PARTIES

24 10. Plaintiff UMIH is a California corporation that provides essential
 25 medical imaging services to patients throughout California, with its principal place of
 26 business at 11411 Brookshire Ave, Unit 101, Downey, CA 90241.

27 11. Defendant HHS is a federal agency of the United States headquartered
 28 in Washington, D.C., responsible for administering the PRF program. HHS may be

1 served by serving on the United States a copy of the summons and complaint through
2 the United States Attorney for the Central District of California and by sending a copy
3 of the summons and complaint by certified mail to the Attorney General of the United
4 States and to HHS's headquarters and principal place of business at 200 Independence
5 Avenue SW, Washington D.C., 20201.

6 12. Defendant Robert F. Kennedy, Jr. is the United States Secretary of
7 Health and Human Services. Defendant Kennedy, by and through his predecessor and
8 designees at HHS and HRSA, issued the agency actions challenged in this case.
9 Kennedy is being sued solely in his official capacity. Kennedy may be served by
10 serving on the United States a copy of the summons and complaint through the United
11 States Attorney for the Central District of California and by sending a copy of the
12 summons and complaint by certified mail to the Attorney General of the United States
13 and to HHS's headquarters.

14 13. Defendant HRSA is a United States government agency to which HHS
15 delegated certain authority to administer programs enacted by the COVID-related
16 legislation, including the PRF. HRSA's headquarters and principal place of business
17 are at 5600 Fishers Lane, Rockville, Maryland 20852. HRSA may be served by
18 serving on the United States a copy of the summons and complaint through the United
19 States Attorney for the Central District of California and by sending a copy of the
20 summons and complaint by certified mail to the Attorney General of the United States
21 and to HHS's headquarters.

22 14. Defendant THOMAS ENGELS is the Administrator of HRSA. Engels
23 is sued solely in her official capacity. Engels may be served by serving on the United
24 States a copy of the summons and complaint through the United States Attorney for
25 the Central District of California and by sending a copy of the summons and
26 complaint by certified mail to the Attorney General of the United States and to
27 HHS's headquarters.

28 15. Defendant United States Treasury Department is a federal agency

1 headquartered in Washington, D.C., responsible for collecting allegedly past due PRF
2 payments. Treasury may be served by serving on the United States a copy of the
3 summons and complaint through the United States Attorney for the Central District
4 of California and by sending a copy of the summons and complaint by certified mail
5 to the Attorney General of the United States and to Treasury's headquarters located
6 at 1500 Pennsylvania Avenue, NW, Washington D.C., 20220.

7 16. Defendant Scott Bessent is the Secretary of the Treasury Department.
8 Bessent is sued solely in his official capacity. Bessent may be served by serving on
9 the United States a copy of the summons and complaint through the United States
10 Attorney for the Central District of California and by sending a copy of the summons
11 and complaint by certified mail to the Attorney General of the United States and to
12 Treasury's headquarters.

13 17. Non-party Transworld Systems, Inc., on information and belief, is a
14 third-party debt collector to whom Treasury sold or assigned responsibility for
15 recouping a portion of the PRF funds distributed to UMIH during phase 3.

16 **BACKGROUND**

17 **The Provider Relief Fund and HRSA's Implementation**

18 18. Congress established the PRF through the CARES Act to support
19 healthcare providers during the COVID-19 pandemic. Congress appropriated roughly
20 \$186 billion to the PRF fund, and additional amounts to other special purpose funds.

21 19. The funding appropriated by Congress pursuant to the PRF was
22 intended to reimburse healthcare providers for increased expenses and lost revenues
23 attributable to the COVID-19 pandemic, and to ensure continued operation of
24 essential healthcare services.

25 20. Congress directed HHS to administer the PRF funds. HHS and Xavier
26 Becerra (then Secretary of HHS), in turn, assigned responsibility for distributing
27 PRF monies to the HRSA and Administrator Engels.

28 21. HRSA administers the PRF on behalf of HHS through four phases of

1 general distributions and various targeted distributions.

2 22. HRSA did not implement the PRF through formal notice and comment
3 rulemaking. Rather, it developed distribution and payment methods internally and
4 issued guidance on the HRSA website in the form of FAQs and other guidance
5 documents on an ad hoc basis. HRSA frequently modified the distribution
6 methodologies, procedures, and application process arbitrarily and without formal
7 notice to providers.

8 23. HRSA distributed the PRF funds in an arbitrary and capricious manner,
9 including by distributing funds inequitably among similarly situated providers and by
10 setting up payment distribution systems that resulted in substantial administrative
11 confusion and delay.

12 **UMIH's PRF Participation and Essential Healthcare Services**

13 24. The PRF was distributed to providers in 4 phases. UMIH received PRF
14 funding under Phase 1, Phase 3, and Phase 4 of the program to support its continued
15 provision of essential medical imaging services during the pandemic.

16 25. For Phase 3, UMIH submitted applications on or around October 22,
17 2020 and December 10, 2020.

18 26. In March 2021, UMIH received two Phase 3 PRF wire transfers for
19 \$167,298.76 and \$1,332,980.23. The total amount of funds received for Phase 3 by
20 UMIH was \$1,500,278.99.

21 27. As directed, UMIH used the PRF funds it received to cover essential
22 expenses and maintain healthcare operations during the COVID-19 pandemic,
23 including:

- 24 a. Rent expenses;
25 b. Payroll costs;
26 c. Medical supplies; and
27 d. Medical equipment maintenance.

28 28. These expenditures were necessary and appropriate uses of PRF funds,

1 enabling UMIH to continue providing essential medical imaging services to patients
2 during the public health emergency.

3 **Initial Reporting Challenges and Portal Issues**

4 29. UMIH designated its Controller, Anna Moon, as the authorized
5 individual responsible for drafting and submitting PRF reports. Ms. Moon was listed
6 as the point of contact for UMIH in the PRF Portal.

7 30. UMIH and Ms. Moon encountered significant difficulties with the PRF
8 Phase 3 reporting portal's interface, which displayed reporting numbers and reporting
9 status in a manner that incorrectly suggested reporting was complete. For instance, in
10 2022, Ms. Moon thought she had submitted the required reporting for Phase 3 through
11 the Phase 3 online portal. When Ms. Moon logged back into the portal the following
12 day to confirm reporting had been completed, the portal displayed input numbers that
13 led Ms. Moon to reasonably believe all reporting had been successfully submitted and
14 that UMIH had met all deadlines.

15 31. This turned out to be incorrect, but UMIH was not even made aware of
16 any purported Phase 3 delinquency until it later received a letter regarding purported
17 Phase 4 delinquency.

18 32. UMIH also encountered difficulties with its Phase 4 reporting and,
19 unlike with what happened during Phase 3, ultimately received notice that it had
20 allegedly failed to comply with HRSA's Phase 4 reporting requirements.

21 33. In both instances, UMIH sought permission to appeal from HRSA
22 regarding its reporting for Phase 3 and Phase 4.

23 34. By the time Plaintiff learned it was allegedly delinquent on reporting
24 for Phase 3, HRSA had already sent the matter to the Treasury Department for
25 collection. HRSA refused to discuss the matter with UMIH, claiming that once it sent
26 a debt to collections neither HRSA nor HHS were able to even discuss the matter with
27 UMIH.

28 35. Thus, HRSA denied UMIH's request to appeal regarding Phase 3

1 reporting requirements because HRSA had already sent the Phase 3 debt to
2 collections.

3 36. HRSA granted UMIH's appeal regarding Phase 4 reporting
4 requirements on April 16, 2024.

5 37. In its letter dated April 16, 2024 granting UMIH's Phase 4 appeal,
6 HRSA explicitly authorized UMIH to submit reporting not only for Phase 4, but also
7 for any other past phases for which UMIH was allegedly not in compliance, including
8 Phase 3.

9 **HRSA's Failure to Provide Promised Access and Treasury's Collection Actions**

10 38. Despite HRSA's written authorization for UMIH to bring itself into
11 compliance with reporting requirements for past phases of PRF funds, UMIH was
12 never provided access to the Phase 3 reporting portal to submit the required
13 information.

14 39. Between April 16, 2024 and August 1, 2024, UMIH made no fewer
15 than six (6) written or telephonic requests to HRSA seeking access to submit its Phase
16 3 reporting as promised in HRSA's Phase 4 appeal determination letter. HRSA either
17 failed to respond or provided vague responses indicating the matter was under review.

18 40. On or around March 26, 2024, the Centralized Receivables Service
19 ("CRS") issued two past due invoices to UMIH. One invoice demanded payment of
20 \$169,057.12, which included the loan principal of \$167,298.76 plus interest and
21 penalties. The other invoice demanded payment of \$1,346,990.22, which included the
22 principal loan amount of \$1,332,980.23 plus interest. The CRS invoices indicate that
23 CRS is a service provided by the U.S. Department of the Treasury to Federal agencies
24 to assist in the management of accounts receivable.

25 41. In or around August 2024, UMIH learned, without having received
26 prior notice, that Treasury had begun withholding Medicare payments to recoup
27 allegedly "delinquent debt" owed to HHS. Specifically, Medicare payments for
28 current UMIH patient services were being withheld by the U.S. Department of the

1 Treasury, Bureau of the Fiscal Service. A true and correct copy of a Medicare
 2 retention letter, dated on or around December 8, 2024, is attached hereto as **Exhibit**
 3 **B**. There was also an instance where the withheld payment was taken from an IRS
 4 tax credit in connection with UMIH's 2023 federal income taxes. A true and correct
 5 copy of this IRS tax credit retention letter, dated on or around October 8, 2024, is
 6 attached hereto as **Exhibit C**.

7 42. These withholdings total \$1,577,976.56 despite the fact that the total
 8 amount of funds received by UMIH for Phase 3 was \$1,500,278.99.

9 43. The withheld Medicare payments represent compensation for essential
 10 medical imaging services provided to Medicare beneficiaries that are entirely
 11 unrelated to the PRF program or Phases 1-4 reporting issues.

12 44. UMIH received no advance notice that Medicare payments would be
 13 withheld and no opportunity to contest the withholding before it began.

14 45. The withholding of these Medicare payments is being done under direct
 15 authorization from HHS and Treasury to withhold Medicare payments until the
 16 disputed PRF amount is recovered.

17 **Harm from Collection Activities and Medicare Withholding**

18 46. The withholding of Medicare payments has caused severe financial
 19 hardship jeopardizing, among other things, UMIH's:

- 20 a. Ability to meet payroll obligations;
- 21 b. Medical equipment lease payments;
- 22 c. Ability to purchase essential medical supplies;
- 23 d. Ability to fully compensate its staff;
- 24 e. Breach of vendor contracts due to payment delays;
- 25 f. Credit rating, thus affecting UMIH's ability to obtain essential
- 26 financing;
- 27 g. Vendor relationships due to payment disruptions;
- 28 h. Reputation and good will.

1 47. The combined effect of collection activities and Medicare withholding
2 threatens UMIH's ability to, among other things:

- 3 a. Maintain staffing levels;
- 4 b. Keep medical equipment properly serviced and calibrated;
- 5 c. Accept new Medicare patients;
- 6 d. Maintain required insurance coverage.

7 **UMIH's Exhaustion of Administrative Remedies**

8 48. Despite HRSA's determination of non-compliance, UMIH never
9 received prior notification or correspondence from HRSA regarding Phase 3
10 delinquency or repayment obligations before the matter was referred to Treasury for
11 collection in or around March 2024.

12 49. According to HRSA's correspondence, once a debt has been sent to
13 Treasury for collection, neither HHS nor HRSA are able to communicate with
14 providers about this debt.

15 50. Therefore, UMIH never had an opportunity to address or rectify its
16 allegedly delinquent Phase 3 reporting directly with HHS or HRSA.

17 51. Given the content of HRSA's April 16, 2024 correspondence granting
18 UMIH's request for a Decision Review of its Phase 4 reporting, it is apparent HHS
19 and/or HRSA itself may have inadvertently sent the Phase 3 debt to Treasury for
20 collection before it meant to do so. This appears to be the case because the April 16,
21 2024 letter explicitly advises UMIH that if it is "non-compliant with submitting a
22 report in any other Reporting Period, you are authorized to also complete and submit
23 those reports at this time. All the reports that need to be completed and submitted will
24 be listed under the Active Reports tab. Please ensure that you use this opportunity to
25 submit all reports that are due to HRSA to avoid future actions for non-compliance."

26 52. As explained above, despite this language, HRSA never made the Phase
27 3 portal available for UMIH to access to correct any alleged reporting delinquency
28 for which it may have been responsible.

1 53. Between February 2024 and January 2025, UMIH made multiple
2 attempts to resolve this matter through administrative channels, including:

- 3 a. Written requests to HRSA for confirmation that Phase 3
4 reporting had been completed in February 2024;
5 b. Written and telephonic requests for Phase 3 portal access
6 after receipt of the April 16, 2024 correspondence from HRSA;
7 c. Submission of supporting documentation demonstrating
8 appropriate use of funds; and
9 d. Multiple telephonic and written requests to CRS asking to
10 appeal the Treasury collection notices.

11 54. On August 20, 2024, UMIH submitted a detailed Reconsideration
12 Request for Debt Owed letter to the Department of the Treasury's Debt Management
13 Services with supporting declarations and documentary evidence. A true and correct
14 copy of this Reconsideration Request is attached hereto as **Exhibit A**.

15 55. This Reconsideration Request included:

- 16 a. A comprehensive explanation of the circumstances leading to
17 the Phase 3 reporting issues;
18 b. Documentation of UMIH's good faith efforts to comply with
19 reporting requirements;
20 c. Evidence of HRSA's written authorization to submit reporting
21 for past Phases;
22 d. Declarations from UMIH's Medical Director, Revenue Integrity
23 Manager, and Controller attesting to the facts; and
24 e. Documentation of UMIH's appropriate use of PRF funds for
25 pandemic-related expenses.

26 56. As of the date of the filing of this Complaint, UMIH has still not
27 received a response to its August 20, 2024 Reconsideration Request despite numerous
28 requests for a response. The most recent request was communicated on or around

1 December 18, 2024.

2 57. Despite UMIH's extensive efforts to resolve this matter through
3 administrative channels, Treasury has continued collection activities and HHS and
4 HRSA have never provided the promised access to submit Phase 3 reporting.

5 58. There is no formal administrative appeals process for PRF reporting
6 determinations, leaving UMIH without adequate administrative remedies.

7 59. UMIH has exhausted all available administrative remedies and has no
8 adequate remedy at law other than this action.

9 **CLAIMS FOR RELIEF**

10 60. Courts recognize a strong presumption favoring judicial review of
11 administrative action.

12 61. The Administrative Procedure Act (“APA”) provides that, “[a] person
13 suffering legal wrong because of agency action, or adversely affected or aggrieved by
14 agency action within the meaning of a relevant statute, is entitled to judicial review
15 thereof.” 5 U.S.C. § 702.

16 62. The APA further provides that “final agency action for which there is
17 no other adequate remedy in a court” is “subject to judicial review.” 5 U.S.C. § 704.

18 63. In addition, the APA permits courts to “compel agency action
19 unlawfully withheld or unreasonably delayed.” 5 U.S.C. § 706(1).

20 64. Finally, the APA provides that courts will “hold unlawful and set aside”
21 agency action that is “arbitrary, capricious, an abuse of discretion, or otherwise not in
22 accordance with law,” “exceeds statutory authority” or is “unsupported by substantial
23 evidence.” 5 U.S.C. §§ 706(2)(A), (C), (E).

24 65. Agency action is arbitrary and capricious if the agency fails to
25 “examine the relevant data and articulate a satisfactory explanation for its action
26 including a rational connection between the facts found and the choice made.” *Motor*
27 *Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43
28 (1983) (internal quotation marks omitted).

COUNT 1 – DECLARATORY RELIEF

(Violation of Administrative Procedure Act - 5 U.S.C. § 706, 28 U.S.C. §§ 2201-2202)

(Against All Defendants)

66. UMIH incorporates by reference paragraphs 1 through 65 as if fully set forth herein.

67. The APA provides that a reviewing court shall "hold unlawful and set aside agency action, findings, and conclusions found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

68. Defendants' actions are arbitrary, capricious, and contrary to law because:

a. HRSA granted UMIH's Phase 4 appeal and explicitly authorized submission of past phase reporting but failed to provide the technical means to do so;

b. HRSA initiated collection action without prior notice despite its written assurance allowing past phase reporting;

c. Treasury continues collection efforts despite UMIH's good faith attempts to comply and submission of a detailed Reconsideration Request with supporting documentation;

d. HRSA's treatment of Phase 3 and Phase 4 reporting requirements has been arbitrary, capricious, inconsistent and contradictory; and

e. Defendants' actions are inconsistent with the CARES Act's purpose of supporting healthcare providers during the COVID-19 pandemic.

69. Due to the Defendants' unlawful actions, UMIH has expended countless hours attempting in vain to rectify the matter.

70. Defendants' actions have also resulted in the withholding of Medicare

1 payments that should have been made to UMIH for providing its patients with
2 essential medical services.

3 71. The Court should hold unlawful the decision by Defendants to send
4 the Phase 3 debt to collections because that decision was arbitrary, capricious, and
5 contrary to law.

6 72. The Court should hold unlawful the collection efforts ordered,
7 overseen and facilitated by Defendants because these collection efforts have been
8 arbitrary, capricious, and contrary to law.

9 **COUNT 2**

10 (Violation of Administrative Procedure Act - 5 U.S.C. §§ 705, 706)

11 (Against All Defendants)

12 73. UMIH incorporates by reference paragraphs 1 through 72 as if fully set
13 forth herein.

14 74. Section 705 of the APA provides that, to prevent irreparable injury,
15 a reviewing court “may issue all necessary and appropriate process to postpone the
16 effective date of an agency action or to preserve status or rights pending conclusion
17 of the review proceedings.” 5 U.S.C. § 705.

18 75. The APA also provides that a reviewing court shall "compel agency
19 action unlawfully withheld or unreasonably delayed." 5 U.S.C. § 706(1).

20 76. Defendants have unlawfully withheld and unreasonably delayed
21 agency action as follows:

- 22 a. Defendants failed to provide UMIH with promised access to
- 23 submit Phase 3 reporting;
- 24 b. Defendants failed process UMIH's Phase 3 reporting despite
- 25 granting its Phase 4 appeal;
- 26 c. Defendants failed to properly maintain its reporting portal to
- 27 allow authorized submissions;
- 28 d. Defendants failed to respond to UMIH's multiple requests for

1 technical access and assistance other than to say they could no
2 longer communicate with Plaintiff about the Phase 3 debt.

3 e. Defendants have failed to respond to Plaintiff's August 20,
4 2024 Reconsideration Request;

5 f. Under the direction of HHS/HRSA, Treasury has withheld
6 Medicare patient payments from UMIH.

7 77. Defendants' actions are the sole reason that UMIH was never able to
8 submit the reporting requirements for its Phase 3 distribution dollars.

9 78. There is a substantial likelihood that UMIH will prevail on the merits.
10 Defendants' actions were arbitrary and capricious because:

11 a. Their confusing Phase 3 reporting portal led Plaintiff to
12 believe it had submitted required reporting for Phase 3;

13 b. They unreasonably deprived UMIH of an opportunity to
14 upload required reporting after the April 16, 2024 letter
15 informing Plaintiff that the Phase 3 portal would be available to
16 Plaintiff to cure any alleged reporting delinquencies;

17 c. They unreasonably sent the Phase 3 debt to collections
18 without first providing proper notice to Plaintiff; and

19 d. They have unreasonably withheld, and will continue to
20 withhold, Medicare patient payments meant for UMIH and UMIH
21 tax credits to satisfy a debt they should not have been collecting
22 on in the first place.

23 79. UMIH faces a substantial risk of irreparable harm absent a preliminary
24 injunction pending a trial on the merits because, if Medicare funds and tax credits
25 continue to be withheld, Plaintiff will be damaged in all the ways set forth above.
26 Until these funds are recouped by Plaintiff, its ability to continue normal operations
27 while having at minimum \$1,577,976.56 less to devote to operational expenses will
28 be in jeopardy.

80. The threatened injury to UMIH outweighs any possible damage to Defendants as an injunction would simply require Defendants to cease collection activities to provide HRSA with the appropriate time needed to review Plaintiff's Phase 3 reporting.

81. The public interest is served by an injunction as it will ensure that UMIH, a critical provider of medical services to southern California during the COVID-19 pandemic, is provided an opportunity to show that its Phase 3 reporting satisfies all of the HRSA/HHS PRF requirements.

82. Accordingly, pursuant to Central District Local Rule 65-1, an Application for Preliminary Injunctive Relief will be filed shortly after this Complaint.

COUNT 3

(Claim for Return of Unlawfully Withheld Funds Under 5 U.S.C. § 702)

(Against All Defendants)

83. UMIH incorporates by reference paragraphs 1 through 82 as if fully set forth herein.

84. Defendants' actions in referring UMIH's alleged debt to collections and authorizing the withholding of Medicare payments while UMIH was actively seeking to resolve and comply with reporting requirements and after HRSA's written authorization to submit reporting for past phases was wrongful, arbitrary and capricious.

85. Plaintiff UMIH seeks specific relief in the form of the return of Medicare payments unlawfully withheld.

86. Plaintiff seeks restitution of specific funds, not compensatory relief.

87. The funds being sought are specific, identifiable Medicare payments that have been wrongfully withheld from UMIH.

88. The withholding occurred as a direct result of the agencies' arbitrary and capricious denial of UMIH's attempt to correct its reporting for the Phase 3 PRF

1 distributions it received totaling \$1,500,278.99.

2 89. But for the unlawful actions of these defendant agencies, UMIH would
3 have received these Medicare patient payments without interruption or diminishment.

4 90. UMIH seeks equitable restoration of the status quo by return of these
5 specific funds.

6 91. The withholding of Medicare payments is causing immediate and
7 irreparable harm to UMIH by:

- 8 a. Disrupting UMIH's cash flow needed for essential
9 operations;
- 10 b. Interfering with UMIH's ability to serve Medicare
11 patients;
- 12 c. Threatening UMIH's ability to maintain necessary medical
13 equipment and supplies;
- 14 d. Threatening UMIH's ability to maintain staffing levels;
- 15 e. Complicating UMIH's efforts to keep medical equipment
16 properly serviced and calibrated;
- 17 f. Threatening UMIH's ability to accept new Medicare
18 patients;
- 19 g. Threatening UMIH's ability to maintain required
20 insurance coverage.

21

22 **PRAYER FOR RELIEF**

23 WHEREFORE, Plaintiff United Medical Imaging Healthcare respectfully
24 requests this Court enter judgment in its favor, and:

25 1. Declare unlawful, vacate, and set aside HRSA's decision to report
26 UMIH's Phase 3 debt to Treasury for collection;

27 2. Declare that HRSA's failure to make the Phase 3 portal available to
28 Plaintiff for the completion of its reporting requirements was arbitrary, capricious and

contrary to law, and therefore violates the APA;

3. Enter a preliminary and permanent injunction restraining Defendants from continuing with their Phase 3 debt collection efforts until after an adequate review of UMIH's Phase 3 reporting has been undertaken by HRSA;

4. Order HRSA to reconsider the timely Phase 3 reporting Plaintiff attempted to provide via the Phase 3 portal;

5. Order Defendants to repay the Medicare patient funds and tax credits that have been unlawfully withheld from UMIH;

6. Award UMIH its reasonable attorney's fees, expenses, and costs pursuant to 28 U.S.C. § 2412(d)(1)(A); and

7. Grant such further relief as the court deems just and necessary.

Respectfully submitted,

DATED: March 12, 2025

NOVIAN & NOVIAN

/s/ Farhad Novian
Farhad Novian
Paul Rogoff
Attorneys for United Medical Imaging
Healthcare, Inc.